

CONSUMER PROTECTION IN E-COMMERCE TRANSACTIONS

Mrs. Rohini Swapnil Dhikale,
Assistant Professor,
N.B.Thakur Law College,
Nashik – 05.

Introduction

The Internet, born and first used as means to exchange knowledge and information between institutions and research centres, or between cultural and research centres, has become also a major instrument for business activities through the exchange of tangible and intangible assets and services. Therefore we are witnessing a progressive placement side by side of a virtual market and the traditional market.

In the digital age, the traditional manner of transacting business has become obsolete as e-commerce utilizing modern technology has replaced the conventional methods of transacting business. Use of computers and Information Technology to transact business by and between entities and individuals is termed as electronic commerce. The markets have transformed to online shopping malls where Business to Consumer and Business to Business transactions materialize using payment gateways and online wallets. The accessibility and ease of using Information and Communication Technology (ICT) propelled internet based payment systems including net banking and mobile payments has been a key factor in the growth of e-commerce.

What is E-Commerce?

Electronic commerce or ecommerce is a term for any type of business, or commercial transaction that involves the transfer of information across the Internet. It covers a range of different types of businesses, from consumer based retail sites, through auction or music sites, to business exchanges trading goods and services between corporations. It is currently one of the most important aspects of the Internet to emerge. E-Commerce allows consumers to electronically exchange goods and services with no barriers of time or distance. Electronic commerce has expanded rapidly over the past five years and is predicted to continue at this rate, or even accelerate.

Basically there is three types of E-Commerce are exists. They are:-

- 1) B2B (business to business)

- 2) B2C (business to consumer)
- 3) C2C (consumer to consumer)

Advantages of E-Commerce to Consumers:-

In a nutshell, the internet is accessible, user friendly, cost effective and efficient means of transacting business. Information can be created, stored, accessed, distributed, processed with much ease and spend on internet and online advertising covers greater audience at minimal cost. Electronic commerce has revolution the methods of undertaking business in almost all sectors of activity including education sector where most courses are now offered through distance education. Because of the global nature of cyberspace and ease of communication both traders and individuals benefit from cross border business opportunities available online, a consumer has wide range of options to choose from and large amount of updated information at his disposal to arrive at a decision while purchasing goods and services online. The domestic industry is able to procure raw materials from across borders. For instance, it is commonly known that in the tyre industry and chemicals sector Indian importers sign e-contracts with Chinese suppliers to order raw materials. Another benefit is the access to information at all times through online web libraries has minimal cost implications. For a consumer it is far easier to conduct research on a topic, assess and analyse an offer of goods or services online. For a consumer e-commerce is a boon offering myriad choices of products and services across diverse markets and quick access to consumer reviews on consumer websites and blogs enabling easy comparison and decision making more convenient. Enhanced customer service is what e-commerce offers to consumers.

For example, for customers, there is no distance limit using E-Commerce right now. "My legs are so tired that I have to go home and take what I need some other time", when you take it something online you are already home on your bed or couch or where ever you feel comfortable and can visit an unlimited number of shops because they all are close to you, in the cyber world. All the clients like to be well treated and become polite answers to their requirements about the products for sale which is not exactly what happens in the real marketing world where you get a superficial answer as though it would not be their job to tell you kindly about the products for sale. E-Commerce is not just about using network based technologies to conduct business. It is about moving organisations to fully electronic environment through change in their work procedures, reengineering their business processes, integrating them with their business partners beyond their traditional boundaries. Electronic Commerce has brought about a veritable revolution in the way businesses are conducted. There is a paradigm shift from paper based transactions to fully electronic

organisations. Networking and messaging over networks is the key to the new scenario in which there is globalisation of organisations, and of markets. Information and Communication Technology (ICT) has wrought a new industrial revolution. It is the Internet which has helped realise globalisation of markets seamlessly. A business connected to the Internet is immediately global in reach and connectivity with no additional cost. One third of all the business transactions conducted electronically will be done through commerce on the Internet.

Consumer Issues: -

Major consumer issues raised by Internet transaction systems include:

- Security
- Privacy
- Terms and Conditions
- Access
- Dispute Resolution
- Fees and Charges
- Fraud
- Jurisdiction issue is most important issue in E-commerce.

Challenges for E-Commerce in India

The growth of ecommerce volumes in India is attracting the attention of players around the globe. India, the second most populous country in the world, is home to 1.2 billion people. To put that number into perspective, consider this: the combined populations of Germany, UK, France, Italy, Netherlands, Belgium, and Greece equal one-fourth the population of India alone! Despite lower per-capita purchasing power, this still makes India one of the most attractive emerging markets for ecommerce. But India is far from being a bed of roses. Here are the top 8 challenges that ecommerce businesses face in India.

1. Indian customers return much of the merchandise they purchase online.

Ecommerce in India has many first time buyers. This means that they have not yet made up their mind about what to expect from ecommerce websites. As a result, buyers sometimes fall prey to hard sell. But by the time the product is delivered, they demonstrate remorse and return the goods. Though consumer remorse is a global problem, it is all the more prevalent in a country like India, where much of the growth comes from new buyers.

2. Cash on delivery is the preferred payment mode.

Low credit card penetration and low trust in online transactions has led to cash on delivery being the preferred payment option in India. Unlike electronic payments, manual cash collection is laborious, risky, and expensive.

3. Payment gateways have a high failure rate.

As if the preference for cash on delivery was not bad enough, Indian payment gateways have an unusually high failure rate by global standards. Ecommerce companies using Indian payment gateways are losing out on business, as several customers do not reattempt payment after a transaction fails.

4. Internet penetration is low.

Internet penetration in India is still a small fraction of what you would find in several western countries. On top of that, the quality of connectivity is poor in several regions. But both these problems are fast disappearing. The day is not far when connectivity issues would not feature in a list of challenges to ecommerce in India.

5. Feature phones still rule the roost.

Though the total number of mobile phone users in India is very high, a significant majority still use feature phones, not smart phones. So, for all practical purposes this consumer group is unable to make ecommerce purchases on the move. Though we are still a couple of years away from the scales tipping in favour of smart phones, the rapid downward spiral in the price of entry-level smart phones is an encouraging sign. I expect that the next few quarters will witness announcements of new smart phones in India at the \$30-40 price point. That should spur growth in smart phone ownership.

6. Postal addresses are not standardized.

If you place an online order in India, you will quite likely get a call from the logistics company to ask you about your exact location. Clearly your address is not enough. This is because there is little standardization in the way postal addresses are written. Last mile issues add to ecommerce logistics problems.

7. Logistics is a problem in thousands of Indian towns.

The logistics challenge in India is not just about the lack of standardization in postal addresses. Given the large size of the country, there are thousands of towns that are not easily accessible. Metropolitan cities and other major urban centers have a fairly robust logistics infrastructure. But since the real charm of the Indian market lies in its large population, absence of seamless access to a significant proportion of prospective customers is a

dampener. The problem with logistics is compounded by the fact that cash on delivery is the preferred payment option in India. International logistics providers, private Indian companies, and the government-owned postal services are making a valiant effort to solve the logistics problem. If someone could convert the sheer size of the problem into an opportunity, we might soon hear of a great success story coming out of the Indian logistics industry.

8. Overfunded competitors are driving up cost of customer acquisition.

The vibrancy in the Indian startup ecosystem over the past couple of years has channeled a lot of investment into the ecommerce sector. The long-term prospects for ecommerce companies are so exciting that some investors are willing to spend irrationally high amounts of money to acquire market share today. Naturally the Indian consumer is spoiled for choice. However, this trend has reversed as investors are getting worried about slipping further down a slippery slope, and expect more rational behavior in 2014.

Online customer protection in India:- Remedies to Consumer for Breach of Contract:-

The use of customer here denotes both wholesalers/ retailers and consumers, i.e persons (including individuals, entities, societies, associations) who are end users of a given product or service.

In India, rights of online consumers are protected by various laws such as the Contract law, IT Act 2000, and Consumer Protection Act, 1986. Contract Act and IT Act also protect customers in B2B transactions although Consumer Protection Act only applies to consumers and not to wholesalers, retailers or forced in cyberspace as Section 10A of the Information Technology Act grants legal protection to business entities who are not end consumers. Consumers Protection Law and Contract Law besides other general and specific laws discussed will apply with equal recognition to e-contracts and Section 81 of the IT Act, 2000 provides that IT Act, 2000 shall have force of law despite inconsistency with other laws in force.

- **Indian Contract Act,1872**

A breach of the terms of a valid contract entitles a party to claim damages or compensation for direct loss under sec 73.

- **Specific Relief Act,1968**

This Act provides remedy of Specific Performance. The right to seek specific performance is only for enforcing individual civil rights and not any penal provisions and it is

only a discretionary relief the court may grant to a party by exercising its discretion.

- **Indian Sale of Goods Act,1930**

The Act is one of very early statutes explaining mercantile law in India and it substitutes sections 76 to 123 of the Contract Act, 1872.

- **Law of Torts:-**

Tort law is based on common law also protect online customers, for any civil wrongs committed by e-tailers or online service providers in India.

- **Indian Penal Code:-**

Criminal Liability for injury or damage caused by defective products or services is imposed by virtue of the Indian Penal Code,1860 where mens rea i.e. intention to cause harm and the actus reus i.e. act of causing injury can be established beyond reasonable doubt. This is general law and will apply with equal force in online transactions too.

- **E-commerce now covered under Consumer Protection Act**

NEW DELHI: E-commerce is covered under the Consumer Protection Act and the central government is not facing any loss in indirect tax revenue due to expansion of online retail business, Parliament was informed today.

"E-commerce operations are already covered under the Consumer Protection Act, 1986," Minister of State for Food and Consumer Affairs Raosaheb Patil Danve said in a written reply to the Lok Sabha.

He was replying to a query whether there is any proposal to bring e-commerce operations under the Consumer Protection Law in view of complaints of cheating and other malpractices by such companies. Danve said trading of goods by e-commerce does not attract levy of service tax. The Consumer Protection Act provides for better protection of consumers interest. Under the law, consumer forums have been set up for the settlement of disputes. To further strengthen this law, the government is planning to introduce amendments to the Consumer Protection Act (CPA) 1986 in the ongoing Winter session of Parliament.

Whether e-commerce has insured the rights of consumers?

Technology is facilitating the creation of new approaches to service delivery and permitting the introduction of new electronic products. For example, a number of major Canadian financial institutions are now offering financial products and services through the Internet. In many cases,

their competitors are scrambling to catch up. Some financial institutions view the Internet as an alternative product delivery channel. The conduct of financial transactions through the Internet is not likely to displace other more traditional channels anytime soon. However, financial institutions appear to be drawn by two factors. The first is the lower transaction costs associated with transactions conducted electronically as opposed to their branch networks. The second attraction is the demographics of customers who are interested in using the Internet to access financial services. One American study projected that with respect to the banking industry, each Internet customer is likely to be 50-250% more profitable than the average banking customer. Some financial institutions have also begun experimenting with the use of electronic contracts formed through "click-through" or "Web-wrap" agreements. For instance, First Union, a US bank, offers an on-line application for a home equity loan. Part of the application procedure includes a notification of certain terms and conditions. To complete the process, applicants must click on a button marked "I understand and accept the above terms and conditions". A similar procedure is used by Bank of Montreal to process on-line applications for MasterCard products.

Support of the OECD Guidelines for Consumer Protection in the Context of Electronic Commerce

Regulation of this area in the U.S. should be governed by the OCED Guidelines on Consumer Protection which were released in 1999. These Guidelines are predicated on the basis that consumers should not be offered any less protection when participating in electronic commerce than they are in other forms of commerce.

- 1) Fair Business, Advertising and Marketing Practices
- 2) Sufficient disclosure of relevant information
- 3) A clear and unambiguous confirmation process.
- 4) Proper means of redress in the case of cross border disputes and clarification of applicable jurisdiction.
- 5) A secure method of payment, minimizing the risk of financial loss.
- 6) A reliable system of international Alternative Dispute Resolution to provide a workable alternative to litigation, which may be costly and disproportionate in the case of long distance transactions

Conclusion

A developing country can become industrialized and modernized if it can extensively apply Information Technology to enhance productivity and Information competitiveness, develop e-commerce application. An information or knowledge based society is composed of IT products, application in society and economy as a whole. Many countries in Asia are taking advantage of e-commerce through opening of economies, which is essential for promoting competition. The internet is boosting efficiency and enhancing market integration in developing countries. The developed world has had a long lead over the developing countries in the telecom infrastructure. With innovations in I T and continuous efforts to frame clearer laws to decide cross border B2B and B2C disputes, many hybrid models will grow in the near future. While stronger consumer protection laws will encourage and promote the e-commerce activity, strict data protection principles and privacy norms will make the cyberspace more reliable and secure for e-commerce transactions.

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